

Bold and Underlined material is that portion being added.
[~~Strikethrough and bracketed~~] material is that portion being deleted.

BILL NO. _____

SUMMARY – An ordinance to amend Clark County Code Chapter 4.08 to redefine “gross receipts” and the deductions and exemptions applicable to combined transient lodging tax.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY CODE CHAPTER 4.08 TO REDEFINE “GROSS RECEIPTS” AND THE DEDUCTIONS AND EXEMPTIONS APPLICABLE TO COMBINED TRANSIENT LODGING TAX, AND PROVIDING OTHER MATTERS RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Clark County Code Section 4.08.005, entitled “Definitions, is hereby amended to read as follows:

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future, and words in the singular number include the plural and the plural the singular. Words not defined in this section shall have their generally accepted meanings unless otherwise defined in Chapters 6.04, 6.08, 8.04, and 8.08 of the Clark County Code. The director shall have the authority to interpret words in accordance with established practice.

(1) "Attrition" means the use or occupancy of less than an agreed upon number of sleeping rooms/spaces by a group of persons.

(2) "Board" means the board of county commissioners of Clark County, Nevada.

(3) "Cancellation" means notification of a transient lodging establishment by a person or group of persons that they will not use or occupy one or more reserved sleeping room(s)/space(s).

(4) "County" means Clark County, Nevada, excluding incorporated cities, unless otherwise indicated.

(5) "Director" means the director of the Clark County department of business license.

(6) "Exchange company" means a company that operates a time-share exchange program.

(7) "Exchange fees" means any fees paid to an exchange company associated with the exchange of occupancy rights among owners of time-shares participating in a time-share exchange program, and for no other purpose, which fees are uniformly established by country for owners of time-shares participating in the time-share exchange program.

(8) "Gross receipts" means the total amount of rent received and any forfeited deposits valued in money, whether accepted in money or otherwise, received by operators [~~from occupants of a transient lodging establishment~~], not including the amount of the combined transient lodging tax imposed by this chapter whether or not it is billed to the transient guest as a combined transient lodging tax. Gross receipts shall

not include refunds~~[7]~~ or uncollected rent that is written off as bad debt~~[7-discounts, or room allowances]~~. Gross receipts shall include recoveries of rent previously written off as bad debt. *The value of discounts, room allowances or complimentary rooms shall not be deducted from gross receipts.*

(9) "Individual" means a human being.

(10) "Occupancy" means the use or possession, or the right to the use or possession of any sleeping room/space or portion thereof, in a transient lodging establishment for dwelling, lodging, or sleeping purposes.

(11) "Occupant" means any person who, for rent, uses, possesses or has the right to possess any sleeping room/space in a transient lodging establishment under any lease, concession, permit, right of access, license, contract or agreement.

(12) "Operator" means the person who is the proprietor of a transient lodging establishment, whether in the capacity of owner, lessee, sublessee, mortgagee, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal.

(13) "Package" means any aggregation of rights to rooms, food, refreshments, merchandise, entertainment, recreation, services, and/or other items grouped as a single unit and sold for a single price.

(14) "Permanent resident" means any individual who has or shall have the right of occupancy in a sleeping room/space at the same transient lodging establishment for

thirty-one consecutive days or more, and for whom rent is exempt from the transient lodging tax on the thirty-first day and every consecutive day thereafter, provided the individual continues to occupy or continues the right to occupy a sleeping room/space at the same transient lodging establishment.

(15) "Person" means an individual, firm, partnership, joint venture, joint stock company, association, estate, trust, corporation, or other legal entity in whatever form and character acting in a representative capacity.

(16) "Primary gaming corridor" means the geographic boundaries as depicted on the map attached to Ordinance 4448 and designated "Primary Gaming Corridor." Any parcel, building or other structure located partially within the primary gaming corridor is deemed to be wholly within the primary gaming corridor.

(17) "Rent"

(a) Means the amount charged for a sleeping room/space in a transient lodging establishment, valued in money, whether received in money or otherwise, and including the following, regardless of whether separately stated:

(i) Charges that would normally be part of an all inclusive room rate, such as, but not limited to, payment processing fees, check-in fees, accommodation fees, facility fees, access fees, charges for additional guests, late check-out fees, and utility surcharges;

(ii) Charges applicable to cleaning and readying such room/space for occupancy including, but not limited to linen fees, cleaning fees, and non-refundable deposits;

(iii) Charges for rental of furnishings and appliances including, but not limited to, cribs, rollaways, refrigerators, televisions, microwaves, and in-room safes;

(iv) Room charges applicable to pets including, but not limited to, non-refundable pet cleaning fees/deposits;

(v) Charges associated with attrition, cancellation, late arrival, or failure to occupy a room, including, but not limited to, attrition fees, cancellation fees, late arrival fees, early departure fees, and no-show fees;

(vi) Reimbursements received for use of a sleeping room/space under incentive programs, such as, but not limited to, frequent guest programs or rewards programs;

(vii) The value of a sleeping room/space included as a component of a package, pursuant to Section 4.08.035;

(viii) Any charges for services, amenities, accommodations, or use, not otherwise specified above, that are mandatory in nature and charged in connection with rental of a sleeping/room space.

(b) Shall not include the charge for any food served or personal services rendered to the occupant, including but not limited to, valet service, room service, or delivery service.

(18) *"Refund" means the return of money to an occupant who paid rent for the right to use a sleeping room/space in a transient lodging establishment.*

19. "Resort hotel" means a building or complex of buildings or other structures kept, used, maintained, advertised, and held out to the public to be a hotel or motel wherein food is served, in which three hundred or more rooms are used for sleeping accommodations, and which has, at a minimum, the amenities set forth in the definition of "resort hotel" at Chapter 8.04, all of which are directly connected to the complex or building and the proposed or existing gaming operation and operated in such manner as to form a part of the same operation and complex.

~~[(19)]~~ (20) "Shall" means must and is mandatory.

~~[(20)]~~ (21) "Senate Bill 1" or "SB1" means Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature that establishes an increase in the transient lodging tax for Clark County for the stadium district and for the expansion of the Las Vegas Convention Center.

~~[(21)]~~ (22) "Stadium authority" means the Clark County Stadium Authority created by Section 21 of Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature.

~~[(22)]~~ (23) "Stadium district" means the district created by Section 21 of Senate Bill 1 of the 30th Special Session (2016) of the Nevada State Legislature, which consists of all property located within (a) the County, including, without limitation, all property located within an incorporated city in the County; and (b) a radius of twenty-five miles from the location at which the board of county commissioners holds its regular meetings as of the date of the passage and approval of SB 1. Any parcel, building or

other structure located partially within the stadium district is deemed to be wholly within the stadium district.

~~[(23)]~~ (24) "Time-share exchange program" means a program for the exchange of occupancy rights among owners of time-shares in a time-share plan or with the owners of time-shares in other time-share plans, or both.

~~[(24)]~~ (25) "Time-share instrument" shall have the meaning set forth in NRS 119A.150.

~~[(25)]~~ (26) "Time-share plan" shall have the meaning set forth in NRS 119A.152.

~~[(26)]~~ (27) "Time share project" shall have the mean set forth in NRS 119A.080 for the term "project".

~~[(28)]~~ (29) "Transient lodging" means the use of, possession of, or right to possess, for rent, a sleeping room/space in a transient lodging establishment under a lease, concession, permit, right of access, license, contract, or agreement.

~~[(29)]~~ (30) "Transient lodging establishment" means any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy by a person or persons who pay rent for dwelling, lodging, or sleeping purposes, and includes any hotel, resort hotel, motel, bed and breakfast, lodging house, time-share project, vacation home, apartment house, recreational vehicle park/campground, or other similar structure or facility, or portion thereof. The term "transient lodging establishment" does not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, nursing home, home for the aged people, foster home, or other similar facility operated for the care or treatment of individuals; any asylum, jail,

prison, orphanage or other facility in which individuals are detained and housed under legal restraint; and housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such education institution, and officially recognized by it; any housing operated or used exclusively for religious, charitable or education purposes by any organization having qualifications for exemption from property taxes and under the laws of the state; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any room within a private dwelling house or other single-family dwelling unit if the permanent or principal owner also resides in and occupies the dwelling; any unit within a time-share project occupied by an owner, or the nonpaying guests of an owner, of a time-share in a time-share project, or in the time-share plan of which the time-share project is a part, who has the right to use or occupy a unit, pursuant to: (a) time-share instrument; or (b) a time-share exchange program. The burden of establishing that the housing or facility is not a transient lodging establishment as defined herein shall be on the owner thereof, who shall file with the director such information as the director may require to establish and maintain such status.

SECTION TWO. Section 4.08.050 of the Clark County Code is hereby amended to read as follows:

No combined transient lodging tax shall be imposed under the provisions of this chapter upon:

(a) Rent received for an apartment, licensed as an apartment house under Section 6.12.090 of this code, wherein the renter has entered into a written lease with a rental period greater than thirty days. However, in the absence of a written lease with a rental period greater than thirty days, rent received for apartments rented for thirty days or less shall be subject to the combined transient lodging tax.

(b) Rent received from permanent residents.

(c) Rent paid directly by the following exempt organizations: United States, State of Nevada, federally chartered credit unions, and the American Red Cross. This exemption does not extend to rent paid by an individual who receives a cash advance from, or is to be later reimbursed by, the exempt organization.

(d) Rent paid by foreign diplomats properly registered with the United States State Department.

(e) ~~Complimentary rooms wherein there is no rent paid to the operator in conjunction with the occupancy.~~

~~(f)~~ The cost of or rent paid for a room in a transient lodging establishment that is not used for sleeping, such as a meeting room.

SECTION THREE. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION FOUR. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION FIVE. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the ____ day of _____, 2020.

PROPOSED BY: Commissioner _____

PASSED on the ____ day of _____ 2020.

AYES: _____

NAYS: _____

ABSTAINING: _____

ABSENT _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
MARILYN KIRKPATRICK, Chair

ATTEST:

Lynn Marie Goya, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____ 2020.